

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RAMAR DANIELS,)	
)	
Petitioner,)	
)	
v.)	No. 1:21-cv-01612-TWP-MPB
)	
DENNIS REGAL,)	
)	
Respondent.)	

**Order Denying Petition for Writ of Habeas Corpus
and Directing Entry of Final Judgment**

This matter is before the Court on Petitioner Ra'Mar Daniels' ("Daniels") petition for a writ of habeas corpus in which he challenges a prison disciplinary proceeding identified as WVD 01-06-0256. For the reasons explained in this Order, Daniels' habeas petition must be **denied**.

A. Overview

Prisoners in Indiana custody may not be deprived of good-time credits or of credit-earning class without due process. *Ellison v. Zatecky*, 820 F.3d 271, 274 (7th Cir. 2016); *Scruggs v. Jordan*, 485 F.3d 934, 939 (7th Cir. 2007); *see also Rhoiney v. Neal*, 723 F. App'x 347, 348 (7th Cir. 2018). The due process requirement is satisfied with: 1) the issuance of at least 24 hours advance written notice of the charge; 2) a limited opportunity to call witnesses and present evidence to an impartial decision-maker; 3) a written statement articulating the reasons for the disciplinary action and the evidence justifying it; and 4) "some evidence in the record" to support the finding of guilt. *Superintendent, Mass. Corr. Inst. v. Hill*, 472 U.S. 445, 454 (1985); *see also Wolff v. McDonnell*, 418 U.S. 539, 563-67 (1974).

B. The Disciplinary Proceeding

On June 28, 2001, Officer Perry issued a Report of Conduct ("Conduct Report") charging Daniels with a violation of Code B-231, Making or Possessing Intoxicants. Dkt. 9-1. The Conduct Report states:

On 6-28-01 at 1740 hrs I (C/O L. Perry), while assigned to KHU, did perform a random shakedown of cell 117 which houses offender Daniels, Ramar #104542 and offender Ortiz, Gonzalo #102825. Prior to entering the cell I (C/O L. Perry) did witness offender Ortiz, Gonzalo #102825 pour a liquid substance from a one (1) gallon container into the toilet of 117 and then flush the toilet. After entering the cell and inspecting the one (1) gallon container I did notice the container contained an alcohol type substance and had an alcoholic odor to it. Upon further examination of the cell I did find an alcohol type substance in the trash can. At this time I (C/O L. Perry) had the trash can and one (1) gallon container tested for alcohol by Sgt. J. Michael. Test results for alcohol were positive.

Id. The Conduct Report noted that the physical evidence was destroyed "due to perishable nature."

Id.

The record also contains a statement from Sergeant Schmitt that corroborates the Conduct Report. Dkt. 9-3. Sergeant Michael also prepared a statement, which is part of the record. Dkt. 9-2. He stated that he performed a "passive alcohol test" on the substance collected from Daniels' cell, and it tested positive for a ".020% or greater alcohol content." *Id.*

Daniels received a copy of the Conduct Report and the Screening Report on July 5, 2001. Dkts. 9-1, 9-5. He pleaded not guilty to the charge and did not request a lay advocate, witnesses, or physical evidence. Dkt. 9-5.

A disciplinary hearing was held on July 12, 2001. Dkt. 9-6. At the hearing, Daniels testified that he was sitting on the bed when correctional officers entered the cell and had "nothing to do" with the alcohol. *Id.* Considering Daniels' statement and the Conduct Report, the hearing officer found Daniels guilty of violating Code B-231, Making or Possessing Intoxicants. *Id.* The sanctions

imposed included a written reprimand, deprivation of 180 days of earned credit time, and a one-level demotion in credit earning class. *Id.*

Daniels did not file an appeal to the Facility Head or the Final Reviewing Authority. Dkt. 9-7 at 44. He filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 almost 20 years after his disciplinary conviction.

C. Analysis

Daniels presents three challenges to his disciplinary conviction: (1) insufficient evidence supports the determination of guilt; (2) the disciplinary charge was a retaliatory act; and (3) he did not receive a hearing on the disciplinary charge. Dkt. 1 at 3-4.

In Indiana, only the issues raised in a timely appeal to the Facility Head and then to the Indiana Department of Correction Appeals Review Officer or Final Reviewing Authority may be raised in a subsequent petition for a writ of habeas corpus. *See* 28 U.S.C. § 2254(b)(1)(A); *Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); *Moffat v. Broyles*, 288 F.3d 978, 981 (7th Cir. 2002). The respondent contends that Daniels failed to exhaust the administrative appeals process and thus is procedurally barred from pursuing relief under § 2254. Dkt. 9 at 9-11. Daniels has not challenged the respondent's argument or shown any basis for overcoming his procedural default. *See* dkt. 10. *See Johnson v. Foster*, 786 F.3d 501, 505 (7th Cir. 2015) (recognizing instances where a court "may excuse a procedural default"). Because the undisputed record reflects that Daniels did not timely exhaust his available administrative remedies, he is not entitled to relief under § 2254.

D. Conclusion

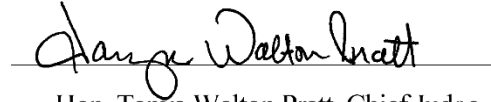
"The touchstone of due process is protection of the individual against arbitrary action of the government." *Wolff*, 418 U.S. at 558. Daniels is not entitled to the relief he seeks because he

did not exhaust his available administrative remedies. Accordingly, his petition for a writ of habeas corpus must be **denied** and this action **dismissed**.

Judgment consistent with this Order shall now issue.

SO ORDERED.

Date: 3/29/2022

A handwritten signature in black ink, reading "Tanya Walton Pratt", is written over a horizontal line.

Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

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